28.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~478.~~ 260

JACOB STERN AND K. M. OPPENHEIMER, APPELLANTS,

vs.

THE UNITED STATES.

APPEAL FROM THE COURT OF CLAIMS.

FILED JANUARY 12, 1871.

Dec, 1871

SUPREME COURT OF THE UNITED STATES.

No. 478.

JACOB STERN AND K. M. OPPENHEIMER, APPELLANTS,

vs.

THE UNITED STATES.

APPEAL FROM THE COURT OF CLAIMS.

INDEX.

	Original.	Print.
Petition of Stern and Oppenheimer	1	1
Traverse and pleas	4	2
Petition of Karl M. Oppenheimer	5	3
Traverse and pleas	8	5
Petition of Jacob Stern	9	6
Traverse and pleas	12	7
Replication	13	8
Transcript of journal showing submission of cases together	15	9
Final judgment of the court	16	9
Application for an appeal	17	10
Order of court allowing same	17	10
Motion to vacate appeal and for new trial	18	10
Order of court overruling same	20	11
Findings of fact and of law	21	11
Certificate	30	14

1 *Petition.*

United States Court of Claims.

STERN & OPPENHEIMER }
vs.
THE UNITED STATES. }

To the honorable the United States Court of Claims:

The petition of Stern & Oppenheimer, naturalized citizens of the United States, and residents of Savannah, in the State of Georgia, showeth:

That, in the month of January, 1865, your petitioners were the owners and in possession of twenty-eight bales of upland cotton, classed as fair quality, weighing 13,314 pounds, and marked "S. & O.," then stored in warehouse in the said city of Savannah.

That, in the said month of January, 1865, after the occupation of said city by the United States forces, your petitioners, in obedience to orders from the military authorities of the United States then holding and governing said city, reported said cotton as theirs, and in their possession. And afterwards, to wit, in the same month of January, all of said cotton was seized and taken possession of by Lieut. Col. H. C. Ransom, acting, as your petitioners are informed and believe, under the orders of the War Department, but without the consent of your petitioners, and against their will; and that no part of said cotton, or the proceeds thereof, was appropriated in any way to the use of the Army or Navy of the United States; but that said cotton was turned over by the officer seizing it to an agent of the Treasury Department, by whom it was sold, and the nett proceeds thereof paid into the Treasury of the United States.

2 Your petitioners aver that they are unable to state the precise amount for which said cotton was sold, or the expenses attending the seizure, shipment, transportation, and sale; but they state, on information and belief, that the said cotton was sold by the agent of the Treasury Department, as follows, to wit, for seventy-five cents per pound, the aggregate of sale being nine thousand nine hundred and eighty-five dollars and fifty cents, and the expenses thereof did not exceed five per cent., and the nett proceeds thereof, which have been paid the Treasury of the United States, amount to nine thousand four hundred and eighty-six dollars and twenty-three cents.

Your petitioners further show that their cotton had never been abandoned or forfeited, nor become liable to confiscation under any of the acts of Congress in that behalf made and provided; and that it was not liable to seizure or capture under the laws of nations, nor under the laws and usages of war; and that no proceedings for the purpose of condemning said cotton have ever been instituted in any court or before any tribunal.

Your petitioners aver that their property having been taken possession of by the United States Government and appropriated by it, an implied contract has arisen to make your petitioners just compensation therefor, by paying them all said cotton was reasonably worth at the time and place it was so taken from them as aforesaid.

Your petitioners further show that their cotton was worth, at the time of its seizure, as they verily believe, the sum of $9,985 50, which amount they are entitled to recover from the United States under the implied contract as above.

Your petitioner' further shows that if there has been a valid and lawful capture of said cotton, which they understand is asserted by the United States, they are, nevertheless, entitled to receive the nett proceeds of it, amounting to the said sum of $9,486 23, as they verily believe, under the provisions of the act of Congress, approved March 12, 1863, entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States."

Your petitioners further shows that they have never, in any way,
3 voluntarily aided, abetted, or encouraged the late rebellion against the Government and authority of the United States.

COOLEY & CLARKE,
Sol'rs for Claimants.

Karl M. Oppenheimer, being duly sworn, deposeth and saith that he is one of the claimants named in the foregoing petition, and that no assignment or transfer of said claim, or any part thereof, or any interest therein has been made; that they are justly entitled to the amount therein claimed from the United States, after allowing all just claims and offsets, and that he believes the facts stated in said petition to be true.

K. M. OPPENHEIMER.

Subscribed and sworn to before me this 2d day of May, A. D. 1867.

H. C. HOLCOMBE,
Clerk U. S. Dist. C't for S. D. Ga.

P. O. address of claimant, Savannah, Ga.
P. O. address of counsel, Cooley & Clarke, Washington, D. C.

4 In the United States Court of Claims. December term, A. D. 1866.

STERN & OPPENHEIMER
vs.
THE UNITED STATES. } No. 2778.

And the said defendants, by their solicitor, come and make answer to the petition of the claimants herein; and, not confessing the same, or any part thereof, deny each and every the allegations therein contained, and call for strict proof of the same.

And as to so much of the said petition as sets forth and avers that the said United States are indebted to the said claimants in the sum of $9,486 23, the said defendants say that they are not indebted to the said claimants in the said sum of money, nor any part thereof.

And as to so much of the said petition as avers that the said claimants have at all times borne true faith and allegiance to the Government of the United States, and never voluntarily aided, abetted, or given encouragement to rebellion against the said Government, the said defendants deny the said allegation.

E. P. NORTON,
Solicitor for the U. S.

And for a further plea to the said petition the said defendants say that the said claimants ought not to have or maintain their aforesaid action against the said defendants, because they say that the said claimants did not, "within two years after the suppression of the late rebellion, prefer their claim to the proceeds" of the property mentioned

and described, in the Court of Claims, as provided by the 3d section of the act of Congress, approved March 12, 1863, and entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States."

E. P. NORTON,
Solicitor for the U. S.

STERN AND OPPENHEIMER
vs.
THE UNITED STATES. } No. 2778. Dec. term, 1868.

And for a further plea to the said petition the said defendants say that the said claimants ought not to have or maintain their aforesaid action against the said defendants, because they say that the said claimants, at the time of the filing of their said petition, were aliens, and that the said seizure and taking possession of the said property named in the said petition, and the said several acts and doings of the defendants, their officers, servants, and agents therein set forth were made and done in the administration of, and in virtue and under color of, the act of Congress entitled "An act to provide for the collection of abandoned property, and for the prevention of fraud in insurrectionary districts within the United States," approved M'ch 12, 1863.

Whereby and by virtue of the provisions of the act of Congress entitled "An act regulating judicial proceedings in certain cases, for the protection of officers and agents of the Government, and for the better defence of the Treasury against unlawful claims," approved July 27, 1868, the claimants are barred of their said action against the defendants.

T. LYLE DICKEY,
Assistant Attorney General.

5 *Petition.*

United States Court of Claims.

KARL M. OPPENHEIMER
vs.
THE UNITED STATES.

To the honorable the United States Court of Claims:

The petition of Karl M. Oppenheimer, a naturalized citizen of the United States, and a resident of Savannah, in the State of Georgia, showeth:

That, in the month of January, 1865, your petitioner was the owner and in possession of eight bales of Sea Island cotton, classed as fair quality, weighing 2,821 pounds, and eleven bales of upland cotton, of fair quality, weighing 5,113 pounds, and all marked "O," then stored in warehouse in the said city of Savannah.

That, in the said month of January, 1865, after the occupation of said city by the United States forces, your petitioner, in obedience to orders from the military authorities of the United States then holding and governing said city, reported said cotton as his and in his possession; and afterwards, to wit, in the same month of January, all of said cotton was seized and taken possession of by Lieut. Col. H. C. Ransom, acting, as your petitioner is informed and believes, under the orders of the War Department, but without consent of your petitioner, and against his will; and that no part of said cotton or the proceeds thereof was appropriated in any way to the use of the Army or Navy of the United

States; but the said cotton was turned over, by the officer seizing it, to an agent of the Treasury Department, by whom it was sold, and the nett proceeds thereof paid into the Treasury of the United States.

Your petitioner avers that he is unable to state the precise amount for which said cotton was sold, or the expenses attending the
6 seizure, shipment, transportation and sale; but he states, on information and belief, that the said cotton was sold by the agent of the Treasury Department, as follows, to wit, for seventy-five cents per pound, the aggregate of sale being six thousand and seventy dollars and fifty cents, and the expenses thereof did not exceed five per cent., and the nett proceeds thereof, which have been paid into the Treasury of the United States, amount to five thousand seven hundred and sixty-six dollars and ninety-eight cents, as your petitioner believes.

Your petitioner further shows that his cotton had never been abandoned or forfeited, nor become liable to confiscation under any of the acts of Congress, in that behalf made and provided; and that it was not liable to seizure or capture under the laws of nations, nor under the laws and usages of war; and that no proceedings for the purpose of condemning said cotton have ever been instituted in any court or before any tribunal.

Your petitioner avers that his property having been taken possession of by the United States Government and appropriated by it, an implied contract has arisen to make your petitioner just compensation therefor, by paying him all said cotton was reasonably worth at the time and place it was so taken from him, as aforesaid.

Your petitioner further shows that said cotton was worth at the time of its seizure, as he verily believes, the sum of $6,070 50, which amount he is entitled to recover from the United States, under the implied contract as above.

Your petitioner further shows that if there has been a valid and lawful capture of said cotton, which he understands is asserted by the United States, he is, nevertheless, entitled to receive the nett proceeds of it, amounting to the sum of $5,766 98, as he verily believes, under the provisions of the act of Congress, approved March 12, 1863, entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States."

Your petetioner further shows that he has never in any way
7 voluntarily aided, abetted, or encouraged the late rebellion against the Government and authority of the United States.

COOLEY & CLARKE,
Sol'rs for Claimant.

Karl M. Oppenheimer, being duly sworn, deposeth and saith that he is the claimant named in the foregoing petition, and that no assignment or transfer of said claim, or any part thereof, or any interest therein has been made; that he is justly entitled to the amount therein claimed from the United States, after allowing all just claims and offsetts, and that he believes the facts stated in said petition to be true.

K. M. OPPENHEIMER.

Subscribed and sworn to before me this 2d day of May, A. D. 1867.

H. C. HOLCOMBE,
Clerk U. S. Dist. C't for S. D. Ga.

P. O. address of claimant, Savannah, Ga.
P. O. address of counsel, Cooley & Clarke, Washington, D. C.

8 In the United States Court of Claims. December term, A. D. 1867.

KARL M. OPPENHEIMER
vs.
THE UNITED STATES. } No. 2782.

And the said defendants, by their solicitor, come and make answer to the petition of the claimant herein; and, not confessing the same, or any part thereof, deny each and every the allegations therein contained, and call for strict proof of the same.

And as to so much of the said petition as sets forth and avers that the said United States are indebted to the said claimant in the sum of $5,766 98, the said defendants say that they are not indebted to the said claimant in the said sum of money, nor any part thereof.

And as to so much of the said petition as avers that the said claimant has at all times borne true faith and allegiance to the Government of the United States, and never voluntarily aided, abetted, or given encouragement to rebellion against the said Government, the said defendants deny the said allegation.

E. P. NORTON,
Solicitor for the United States.

And for a further plea to the said petition the said defendants say that the said claimant ought not to have or maintain his aforesaid action against the said defendants, because they say that the said claimant did not, "within two years after the suppression of the late rebellion, prefer his claim to the proceeds" of the property mentioned and described, in the Court of Claims, as provided by the 3d section of the act of Congress, approved March 12, 1863, and entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States."

E. P. NORTON,
Solicitor for the U. S.

Dec. term, 1868.

And for a further plea to the said petition, the said defendants say that the said claimant ought not to have or maintain his aforesaid action against the said defendants, because they say that the said claimant, at the time of the filing of his said petition, was an alien, and that the said seizure and taking possession of the said property named in the said petition, and the said several acts and doings of the defendants, their officers, servants, and agents therein set forth were made and done in the administration of, and in virtue and under color of, the act of Congress, entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States," approved M'ch 12, 1863.

Whereby and by virtue of the provisions of the act of Congress entitled "An act regulating judicial proceedings in certain cases, for the protection of officers and agents of the Government, and for the better defence of the Treasury against unlawful claims," approved July 27, 1868, the claimant is barred of his said action against the defendants.

T. LYLE DICKEY,
Assistant Attorney General.

9 *Petition.*

United States Court of Claims.

JACOB STERN
vs.
THE UNITED STATES.

To the honorable the United States Court of Claims:

The petition of Jacob Stern, a naturalized citizen of the United States, and a resident of Wilkesbarre, in the State of Pennsylvania, showeth:

That, in the month of January, 1865, your petitioner was the owner and in possession of six bales of Sea Island cotton, classed as good quality, weighing 2,015 pounds, marked [W,] then stored in the city of Savannah.

That, in the said month of January, 1865, after the occupation of said city by the United States forces, your petitioner, in obedience to orders from the military authorities of the United States then holding and governing said city, reported said cotton as his and in his possession; and afterwards, to wit, in the same month of January, all of said cotton was seized and taken possession of by Lt. Col. H. C. Ransom, acting, as your petitioner is informed and believes, under the orders of the War Department, but without the consent of your petitioner, and against his will; and that no part of said cotton, or the proceeds thereof was appropriated in any way to the use of the Army or Navy of the United States; but that said cotton was turned over by the officer seizing it, to an agent of the Treasury Department, by whom it was sold and the nett proceeds thereof paid into the Treasury of the United States.

10 Your petitioner avers that he is unable to state the precise amount for which said cotton was sold, or the expenses attending the seizure, shipment, transportation and sale; but he states, on information and belief that the said cotton was sold by the agent of the Treasury Department, as follows, to wit, for seventy-five cents per pound, the aggregate of sale being one thousand five hundred and eleven dollars and twenty-five cents, and the expenses thereof did not exceed five per cent., and the nett proceeds thereof which have been paid into the Treasury of the United States, amount to one thousand four hundred and thirty-five dollars and seventy cents.

Your petitioner further shows that his cotton had never been abandoned or forfeited, nor become liable to confiscation under any of the acts of Congress, in that behalf made and provided; and that it was not liable to seizure or capture, under the laws of nations nor under the laws and usages of war; and that no proceedings for the purpose of condemning said cotton have ever been instituted in any court or before any tribunal.

Your petitioner avers that his property having been taken possession of by the United States Government and appropriated by it, an implied contract has arisen to make your petitioner just compensation therefor, by paying him all said cotton was reasonably worth at the time and place it was so taken from him as aforesaid.

Your petitioner further shows, that said cotton was worth at the time of its seizure, as he verily believes, the sum of $1,511 25, which amount he is entitled to recover from the United States, under the implied contract as above.

Your petitioner further shows, that if there has been a valid and law-

ful capture of said cotton, which he understands is asserted by the United States, he is, nevertheless, entitled to receive the nett proceeds of it, amounting to the said sum of $1,435 70, as he verily believes, under the provisions of the act of Congress, approved March 12, 1863, entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States."

11 Your petitioner further shows that he has never in any way voluntarily aided, abetted, or encouraged the late rebellion against the Government and authority of the United States.

COOLEY & CLARKE,
Sol'rs for Claimant.

Jacob Stern, being duly sworn, deposeth and saith that *that* he is the claimant named in the foregoing petition, and that no assignment or transfer of said claim or any part thereof, or any interest therein has been made; that he is justly entitled to the amount therein claimed from the United States, after allowing all just claims and offsets, and that he believes the facts stated in said petition to be true.

JACOB STERN.

Subscribed and sworn to before me this 11th day of July, A. D. 1867.

JOHN S. HOLLINGSHEAD,
A Comm'r of the Court of Claims.

P. O. address of claimant, Wilkesbarre, Pa.
P. O. address of counsel, Cooley & Clarke, Washington. D. C.

12 In the United States Court of Claims. December term, A. D. 1866.

JACOB STERN
vs.
THE UNITED STATES. } No. 2813.]

And the said defendants, by their solicitor, come and make answer to the petition of the claimant herein: and, not confessing the same, or any part thereof, deny each and every the allegations therein contained and call for strict proof of the same.

And as to so much of the said petition as sets forth that the United States are indebted to the claimant in the sum of $1,435 70, the said defendants say they are not indebted to the said claimant in the said sum of money, nor any part thereof.

And as to so much of the said petition, as avers that the said claimant has, at all times, borne truth faith and allegiance to the Government of the United States, and never voluntarily aided, abetted, or given encouragement to rebellion against the said Government, the said defendants deny the said allegation.

E. P. NORTON,
Solicitor for the U. S.

And for a further plea to the said petition, the said defendants say that the said claimant ought not to have or maintain his aforesaid action against the said defendants, because they say that the said claimant did not, "within two years after the suppression of the late rebellion,

prefer his claim to the proceeds" of the property mentioned and described, in the Court of Claims, as provided by the 3d section of the act of Congress, approved March 12, 1863, and entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States."

E. P. NORTON,
Solicitor for the U. S.

JACOB STERN
vs.
THE UNITED STATES. } 2813. Dec. term, 1868.

And for a further plea to the said petition, the said defendants say that the said claimant ought not to have or maintain his aforesaid action against the said defendants, because they say that the said claimant, at the time of the filing of his said petition, was an alien, and that the said seizure and taking possession of the property named in the said petition, and the said several acts and doings of the defendants, their officers, servants, and agents therein set forth were made and done in the administration of, and in virtue and under color of, the act of Congress entitled "An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts," approved M'ch 12, 1863.

Whereby and by virtue of the provisions of the act of Congress entitled "AN act regulating judicial proceedings in certain cases, for the protection of officers and agents of the Government, and for the better defence of the Treasury against unlawful claims," approved July 27, 1868, the claimant is barred of his said action against the defendants.

T. LYLE DICKEY,
Assistant Attorney General.

13 United States Court of Claims.

STERN & OPPENHEIMER
vs.
THE UNITED STATES. } No. 2778.

KARL M. OPPENHEIMER
vs.
THE UNITED STATES. } 2782.

JACOB STERN
vs.
THE UNITED STATES. } 2813.

Replication.

1. And now comes the claimant, by his solicitors, and for replication to the first plea of the defendant herein pleaded, says that he denies that the said claimant did not, within two years after the suppression of the rebellion, prefer their claim to the proceeds of the property mentioned and described in said petition in the Court of Claims, as provided by the 3d section of the act of Congress, approved March 12, 1863, entitled "An act to provide for the collection of abandoned property," &c., as alleged in the said defendant's plea. And this he prays may be inquired of by the court.

Wherefore, the said claimant prays judgment.

COOLEY & CLARKE,
Sol's for Claimant.

14 2. And for replication to the second plea of the said defendant herein pleaded, this claimant says that he denies that the said claimant, at the time of filing his said petition herein, was an alien, or that the said seizure and taking possession of the said property named in said petition, and the said several acts and doings of the defendants, their officers, servants, and agents, therein set forth, were made and done in the administration of, and in virtue and under color of, the act of Congress entitled:

as alleged in the said plea. And this he prays may be inquired of by the court.

COOLEY & CLARKE,
Sol's for Claimant.

Filed Jan'y 13, 1869.

15 In the Court of Claims.

STERN & OPPENHEIMER *vs.* THE UNITED STATES. } 2778.

KARL M. OPPENHEIMER *vs.* THE UNITED STATES. } 2782.

JACOB STERN *vs.* THE UNITED STATES. } 2813.

These cases were argued by Mr. Clarke for the claimants, and by Mr. Hale, special counsel of the Treasury, for defendants, & submitted together.
April 5, 1870.

16 In the Court of Claims.

JACOB STERN & KARL M. Oppenheimer *vs.* THE UNITED STATES. } 2778.

KARL M. OPPENHEIMER *vs.* THE UNITED STATES. } 2782.

JACOB STERN *vs.* THE UNITED STATES. } 2813.

And now, to wit, April 18, 1870, the court, on due consideration of the premises find, in each of these cases for the defendants, and do order, adjudge, and decree that the several petitions of these claimants be dismissed.
By the court.
A true copy of record.

17 United States Court of Claims. Dec. term, 1869.

STERN & OPPENHEIMER
vs.
THE UNITED STATES. } 2778.

KARL M. OPPENHEIMER
vs.
THE UNITED STATES. } 2782.

JACOB STERN
vs.
THE UNITED STATES. } 2813.

Come the claimants in the above entitled causes, by their solicitors, and move the court here to allow an appeal in said causes to the Supreme Court of the United States, the amount in controversy exceeding three thousand dollars.

COOLEY & CLARKE,
Solicitors for Claimants.

Filed in the clerk's office, April 25, 1870.

Ordered that the appeals prayed for in these several causes be allowed.
April 25, 1870.
By the court.

18 United States Court of Claims. Dec. term, 1869.

STERN & OPPENHEIMER
vs.
THE UNITED STATES. } 2778.

KARL M. OPPENHEIMER
vs.
THE UNITED STATES. } 2782.

JACOB STERN
vs.
THE UNITED STATES. } 2813.

Come now the claimants, by their solicitors, and move the court here to vacate the allowance of an appeal, and set aside the judgments of the court, dismissing the petitions heretofore rendered at this term of the court, and to grant a new trial in said causes, for the following reasons:

1. Because these causes were submitted as one case on the 5th of April, 1869, and decided against the claimants prior to the decision of the Supreme Court in the Padelford case.

2. Because the said Jacob Stern took the amnesty oath upon his escape from the rebel confederacy to the Union gunboats at Grand Gulf, Mississippi, as shown by the despatches hereto attached.

3. Because the said Karl M. Oppenheimer took the amnesty oath on the 1st of August, 1865, as is shown by the certificate of the officer administering the same.

COOLEY & CLARKE,
Solicitors for Claimants.

19 *Copy of said oath of amnesty attached to said motion.*

No. 1138.] "UNITED STATES OF AMERICA.

"I, K. M. Oppenheimer, of the county of Clinch, State of Geo., do solemnly affirm, in the presence of Almighty God, that I will henceforth faithfully support and defend the Constitution of the United States, and the Union of the States thereunder, and that I will, in like manner, abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves. So help me God.

(Signed) "K. M. OPPENHEIMER.

"I certify that the above is a true copy.
"Aug. 1, 1865.

"F. S. COFFIN,
"*Lieut. and Ass't Provost Marshal, Savannah, Ga.*"

The aforesaid motion, with copy of oath of amnesty, was filed in the clerk's office, May 23, 1870.

20 In the Court of Claims. Dec. term, 1870.

STERN & OPPENHEIMER *vs.* THE UNITED STATES. } 2778.

KARL M. OPPENHEIMER *vs.* THE UNITED STATES. } 2782.

JACOB STERN *vs.* THE UNITED STATES. } 2813.

The motion to vacate the allowance of the appeals in these cases, & to grant new trial, as submitted November 29, 1870, was denied Dec. 5, 1870.

By the court.

A true copy of record.

21 United States Court of Claims. December term, A. D. 1869.

STERN & OPPENHEIMER *vs.* THE UNITED STATES. } No. 2778.

KARL M. OPPENHEIMER *vs.* THE UNITED STATES. } No. 2782.

JACOB STERN *vs.* THE UNITED STATES. } No. 2813.

Finding of facts by the court.

The above-entitled causes having been tried and submitted to the

court together, as one cause, the court do find the facts to be as follows:

1. That, prior to November, 1864, the said firm of Stern and Oppenheimer was the owner of twenty-eight bales of upland cotton.

2. That, in August, 1864, the said Karl M. Oppenheimer was the owner, in his own right, of eight bales of Sea Island and nine bales of upland cotton.

22 3. That in , 1864, the said Jacob Stern was the owner, in his own right, of six bales of Sea Island.

4. That, at the time of the capture of the city of Savannah, in the State of Georgia, by the United States Army, in December, 1864, all of said cotton was stored in said city for said claimants; that all of said cotton was seized by the Union authorities; that the same was subsequently shipped to Simeon Draper, United States cotton agent, New York, and by him sold for the benefit of the United States; and that the proceeds thereof have been paid into the Treasury of the United States.

5. That the said K. M. Oppenheimer and the said Jacob Stern are citizens of the United States, the said Oppenheimer having been naturalized on the 24th of September, 1859, and the said Stern on the 17th of February, 1859.

6. That the declarations and conversations of the said claimants were sometimes in favor of the United States, and in opposition to the
23 rebellion.

7. That, at the commencement of the late rebellion, the said Oppenheimer resided at Stockton, in the State of Georgia; that he subsequently went to Homersville, in the same State; and then came to Savannah; and that said Oppenheimer moved from place to place.

8. That the said Oppenheimer, early in the war, was in the rebel army; that he afterwards bribed a rebel officer to give him exemption papers, for which he paid a large sum of money.

9. That the said Oppenheimer, having a wife and children, was unwilling to leave them, and remained in the confederacy.

10. That the said Jacob Stern entered into the rebel military service early in the war, where he remained until 1863; that, in 1863, he left said service, and went to Charleston; that he left Charleston, and escaped through the confederate lines to Grand Gulf, Miss., where
24 the said Stern reported to one of the Federal gun-boats, and was sent north; and that said Stern went directly to New York, remaining there and at Wilkesbarre, Pennsylvania, till the close of the war.

11. That both of said claimants were regarded by some of their associates and friends as Union men, and opposed to the rebellion; and that such was their reputation among some of their acquaintances.

12. That the net proceeds of the claimants' cotton, which have been paid into the Treasury, without deducting the internal revenue tax of two cents per lb., amount to the following:

Stern & Oppenheimer, 28 bales of upland, at $175 33....	$4,909 24
K. M. Oppenheimer, 8 bales of Sea Island, at $231 79, & 9 bales of upland, at $175 33.....	3,432 29
Jacob Stern, six bales of Sea Island, at $231 79.....	1,390 74
	$9,732 27

25 *Conclusions of law by the court.*

And upon the foregoing facts the court do find as conclusions of law as follows:

1. That the said claimants, K. M. Oppenheimer and Jacob Stern, voluntarily gave aid and comfort to the late rebellion, and did not consistently adhere to the United States; and, therefore, their petition was dismissed, and judgment was given for the United States.

By the court.

26 United States Court of Claims. December term, A. D. 1869.

STERN & OPPENHEIMER *vs.* THE UNITED STATES. } No. 2778.

KARL M. OPPENHEIMER *vs.* THE UNITED STATES. } No. 2782.

JACOB STERN *vs.* THE UNITED STATES. } No. 2813.

The following findings of fact were proposed by the counsel for claimants, but were denied by the court:

That the declarations and conversations of the said claimants, whenever they expressed themselves, were in favor of the United States and in opposition to the rebellion, and that neither voluntarily in any way gave any aid or comfort to the late rebellion.

That, at the commencement of the late rebellion, the said Oppenheimer resided at Stockton, in the State of Georgia; that he subsequently went to Homersville, in the same State, and then came to Savannah;

27 and that said Oppenheimer thus moved from place to place to avoid being forced into the rebel army.

That the said Oppenheimer, in 1862 or 1863, was conscripted into the rebel army, and that he bribed a rebel enrolling officer to give him exemption papers, for which he paid a large sum of money, declaring he would pay every cent he had in the world to get out, and that he could not fight against the Union, and that by this means he evaded the rebel military service.

That the said Oppenheimer often expressed a desire to escape from the rebel confederacy, but having a wife and children he was unable to leave them.

That the said Jacob Stern was either conscripted or forced by the fear of personal danger into the military service, where he remained but a short time; that, in 1863, he escaped from said service and went

28 to Charleston, and that he left Charleston in company with a Union woman, whose husband was in the Union service, and escaped through the confederate lines, travelling by Augusta, Atlanta, Selma, Meridian, and Brandon, to Grand Gulf, Miss., where the said Stern reported to one of the Federal gun-boats and was sent north; and that said Stern went directly to New York, where he remained till the close of the war.

That both of said claimants were regarded by their confidential as-

sociates and friends as Union men, and opposed to the rebellion; and that such was their reputation among their acquaintances.

That, in the city of Savannah, during the late rebellion, it was not safe for a loyal man to openly avow himself in favor of the Union and in opposition to the rebellion, and such avowals were only made se-
29 cretly and to confidential friends; that Union men could only escape from the confederacy clandestinely, and at great personal risk; that the sequestration and conscription acts were rigidly enforced, and that the property of those Union men who escaped from the confederacy were sequestrated by the rebel government.

30 In the Court of Claims.

STERN AND OPPENHEIMER
vs.
THE UNITED STATES.

KARL M. OPPENHEIMER
vs.
THE UNITED STATES.

JACOB STERN
vs.
THE UNITED STATES.

Nos. 2778, 2782. & 2813.

I, John Randolph, assistant clerk of the Court of Claims, do hereby certify that the foregoing are true transcripts of the pleadings in the above-entitled cause, and the final judgment of the court thereon; of the application of the counsel for claimants for the allowance of an appeal, as filed in the clerk's office April 25, 1870, and of the order of the court 25 April, 1870, allowing the same; of the motion of claimants' counsel to vacate appeal and grant a new trial, and of the order of the court denying said motion; of the finding of facts, and the conclusions of law on said facts, on which the court founded its judgment.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Washington, this 23d day of December, 1870.

[SEAL.]

JOHN RANDOLPH,
Ass't Clerk Court of Claims.

(Indorsement on cover:) No. 478. Jacob Stern and K. M. Oppenheimer, appellants, vs. The United States. Court of Claims. Filed 12th January, 1871.